

OPEN BOARD MINUTES
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS
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ROLL CALL

A meeting of the New Jersey State Board of Medical Examiners was held on Wednesday, May 14, 2014, at the Richard J. Hughes Justice Complex, 25 Market Street, 4th Floor Conference Center, Trenton, New Jersey. The meeting was called to order by President George J. Scott, D.P.M., D.O., FACOFP

PRESENT

Board Members Angrist, Stewart Berkowitz, Criss, DeLuca, Krauss, Kubiel, Maffei, Metzger, Miksad, Parikh, Rao, Rock, Scott and Shah.

EXCUSED

Board Members Steven Berkowitz, Cheema, DeGregorio and Lopez.

ABSENT

ALSO PRESENT

Senior Deputy Attorneys General Dick, Flanzman, Gelber and Warhaftig, Deputy Attorneys General Hafner and Levine, William V. Roeder, Executive Director of the Medical Board, Sindy Paul, M.D., Medical Director and Harry Lessig, M.D., Consultant Medical Director.

STATEMENT CONCERNING THE ANNUAL NOTICE OF PUBLIC MEETINGS

The requirements of the “Open Public Meetings Act” were satisfied by notice of this meeting given in the annual notice adopted by the New Jersey State Board of Medical Examiners on August 14, 2013 which was transmitted to the ATLANTIC CITY PRESS, STAR LEDGER, CAMDEN COURIER POST, ASBURY PARK PRESS, BERGEN RECORD and the TRENTON TIMES, all on the 24th day of September 2013.

ANNOUNCEMENTS

MINUTES

THE BOARD, UPON MOTION MADE AND
SECONDED VOTED TO APPROVE THE APRIL
9, 2014 OPEN BOARD MINUTES

The Motion was made by Ms. Criss and seconded
by Dr. Stewart Berkowitz. It carried
unanimously.

THE BOARD, UPON MOTION MADE AND
SECONDED, VOTED TO APPROVE THE
FEBRUARY 21, 2014 PHYSICIAN ASSISTANT
ADVISORY COMMITTEE MINUTES.

The Motion, made by Ms. Miksad and seconded

by Dr. Angrist, carried unanimously.

THE BOARD, UPON MOTION MADE AND
SECONDED, VOTED TO APPROVE THE
FEBRUARY 23, 2014 OPEN ATHLETIC
TRAINERS ADVISORY COMMITTEE MINUTES.
The Motion made by Dr. Maffei and seconded by
Dr. Metzger carried unanimously.

NEW BUSINESS

LEGISLATION

Prescription Monitoring Program

Related Legislation

A 3007 - Seeks to require practitioners prescribing Schedule II drugs to check prescription monitoring program prior to issuing prescription and to report prescriptions for Schedule II drugs to program; expands access to program.

A 3008 - Seeks to strengthen requirements regarding prescription monitoring program and broadens access to prescription monitoring program by law enforcement agencies.

S 1948 - Seeks to revise certain provisions of New Jersey Prescription Monitoring Program concerning reporting of and access to information,

and mandatory use by practitioners and pharmacists.

**THE BOARD, UPON MOTION MADE AND
SECONDED, VOTED TO MAKE THE FOLLOWING
COMMENTS:**

**THE BOARD IS GENERALLY SUPPORTIVE OF
EFFORTS TO STRENGTHEN ANY REASONABLE
ENDEAVORS TO PREVENT AND ENFORCE EFFORTS
RELATED TO PRESCRIPTION DRUG DIVERSION.
THE BOARD RECOGNIZED THAT SOME OF ITS
PRIOR SUGGESTED AMENDMENTS HAVE BEEN
MADE AND THE BOARD APPRECIATES THE
CHANGES MADE.**

**THE BOARD, HOWEVER, CONTINUES TO OPPOSE
ANY REQUIREMENTS THAT MAKE CHECKING THE
PMP MANDATORY. THE PRACTITIONER SHOULD
USE HIS/HER OWN PROFESSIONAL JUDGMENT TO
DETERMINE WHEN, OR IF, THE PMP INFORMATION
SHOULD BE ACCESSED AND NEEDED IN ORDER TO
PRESCRIBE, DISPENSE OR ADMINISTER CDS
MEDICATIONS IN AN APPROPRIATE MANNER.**

THE BOARD ONCE AGAIN IS OPPOSED TO ANY

EXPANSION OF ACCESS TO THE PMP INFORMATION ABSENT A COURT ORDER TO LAW ENFORCEMENT AGENCIES. THE CONFIDENTIALITY OF PATIENT INFORMATION IS SO SACRED IN THE DOCTOR/PATIENT RELATIONSHIP AND INFORMATION OBTAINED IN THAT RELATIONSHIP SHOULD NOT BE HANDED OUT WITHOUT THE PROTECTIONS THAT OBTAINING THE COURT ORDER PROVIDES. WHEN THE LEGISLATION WAS ORIGINALLY PROPOSED IN 2009 IN ESTABLISHING THE PRESCRIPTION MONITORING PROGRAM, THE BOARD WENT ON RECORD IN SUPPORT, BUT STATED THAT CONFIDENTIALITY AND LIMITED ACCESS TO THE INFORMATION WERE PARAMOUNT TO THE ENTIRE PATIENT PHYSICIAN RELATIONSHIP AND THERE NEEDED TO BE A BALANCE ACHIEVED BETWEEN PRIVACY RIGHTS AND THE APPROPRIATE CIRCUMSTANCES OF DISCLOSURE, INCLUDING THE MANNER IN WHICH LAW ENFORCEMENT WAS TO OBTAIN THAT INFORMATION. THERE IS A GREAT POTENTIAL FOR THE MISUSE OF THIS INFORMATION, AND THE PRIVACY OF THE PATIENT, EVEN IN THE MISUSE OF THESE MEDICATIONS, SHOULD NOT BE COMPROMISED. THE BOARD ALSO BELIEVED THAT

CONFIDENTIALITY NEEDS TO BE PROTECTED, AS THIS INFORMATION CAN ONLY BE USED WHEN, AND ONLY WHEN, THE ONE REVIEWING IT HAS THE APPROPRIATE KNOWLEDGE BASE TO ASSESS THE INFORMATION OBTAINED. THERE ARE A NUMBER OF CHECKS WITHIN THE PROGRAM, SO THAT IF ANY MISUSE OR CRIMINAL ACTIVITY BY AN INDIVIDUAL IS DISCOVERED, THE INFORMATION CAN BE MADE AVAILABLE TO LAW ENFORCEMENT. TO DATE, THE BOARD HAS NO EVIDENCE THAT THE PROTECTIONS ALREADY IN PLACE HAVE THWARTED LEGITIMATE INVESTIGATION AND/OR PROSECUTION OF ABUSES, WHETHER THAT BE AS A PRESCRIBER OR AS A PATIENT. THE BOARD STRONGLY URGES THAT THIS SECTION NOT BE AMENDED AND THAT THE REQUIREMENT OF OBTAINING A COURT ORDER REMAIN IN FULL FORCE AND EFFECT FOR LAW ENFORCEMENT PERSONNEL.

WHILE THE PROPONENTS HAVE ATTEMPTED TO EASE SOME OF THE ONEROUS BURDEN BY INCLUDING INTERVALS AT WHICH TIMES THE PMP MUST BE CHECKED, THE BOARD VIEWED THOSE INTERVALS AS DIFFICULT, IF NOT IMPOSSIBLE, TO

TRACK, BASED ON THE FREQUENCY OF PATIENT VISITS. THE BOARD WAS APPRECIATIVE OF INCLUSION OF ITS REQUEST TO EXPAND ACCESS OF THE PROGRAM BY PERMITTING THE LICENSEE TO DELEGATE CHECKING OF THE PMP TO ANOTHER HEALTHCARE PROVIDER, HOWEVER, THE BOARD BELIEVES THAT THE LIABILITY FOR THE MISUSE OF THE INFORMATION BY ANOTHER SHOULD NOT REST ON THE PHYSICIAN. THE DEFINITION OF LICENSED HEALTH CARE PROVIDER SHOULD ALSO BE AMENDED TO INCLUDE CERTIFIED NURSE MIDWIVES, WHO HAVE PRESCRIPTIVE AUTHORITY. THE BOARD ALSO OPPOSED SOME OF THE ADDITIONAL REPORTING AND REQUIRED PAPERWORK IN ORDER TO PRESCRIBE UNDER CERTAIN CIRCUMSTANCES, AS IT WOULD PROVE UNREASONABLE. THE BOARD WAS SUPPORTIVE OF CHANGING THE FREQUENCY AT WHICH PHARMACIES MUST SUBMIT THE DATA, AS THE BOARD RECOGNIZED THE UTILITY OF HAVING THE MOST UPDATED INFORMATION AVAILABLE IN THE PRESCRIPTION MONITORING DATABASE, WHICH IS CRUCIAL TO APPROPRIATE PRESCRIBING WHEN THE PRESCRIBER FINDS THAT CHECKING THE PMP IS ADVISABLE.

THE BOARD ALSO IS SUPPORTIVE OF PHYSICIAN REGISTRATION WITH THE PMP, HOWEVER, THE FAILURE TO REGISTER SHOULD NOT, IN AND OF ITSELF RESULT IN THE REVOCATION OF ONE'S AUTHORITY TO PRESCRIBE. THIS APPEARS TO BE A HARSH REMEDY, WHICH DOES NOT TAKE INTO ACCOUNT THE TOTALITY OF THE CIRCUMSTANCES, BASED ON A PRESCRIBING ISSUE.

The Motion was made by Dr. Stewart Berkowitz and seconded by Dr. Metzger. It carried unanimously.

S 1919 - Seeks to establish the "Lactation Consulting Licensing Act."

THE BOARD, UPON MOTION MADE AND SECONDED, VOTED TO OPPOSE THIS LEGISLATION INASMUCH AS IT QUESTIONED THE NECESSITY. IT ALSO BELIEVED THAT THE REQUIREMENTS UNDER THE ACT WERE SOMEWHAT ONEROUS AND DID NOT ASSURE ANY BETTER CARE THAN WHAT ALREADY WAS AVAILABLE. THE BOARD ALSO DID NOT BELIEVE THAT THIS WAS IN THE BEST INTEREST OF THE CONSUMER, AS IT WOULD JUST

CREATE AN ADDITIONAL BILL FROM ANOTHER HEALTH CARE PROFESSIONAL, WHEREAS THOSE SERVICES ARE ALREADY PROVIDED UNDER THE GENERAL CARE PROVIDED AS PART OF THE OB - GYN - FAMILY CARE (AS WELL AS OTHERS) UMBRELLA. THE BOARD QUESTIONES THE NEED TO CONTINUALLY CARVE OUT HEALTHCARE SERVICES INTO SUCH SMALL MICROCOSMS OF PROFESSIONALS. THE BOARD VIEWS THE EDUCATIONAL REQUIREMENTS AS CREATING AN INCONSISTENT STANDARD OF LICENSURE.

Dr. Berkowitz made the motion which was seconded by Dr. Krauss. It carried unanimously.

OLD BUSINESS

Nothing Scheduled

INFORMATIONAL

Attached were the new rules concerning Prescription Blanks as well as new information concerning some important dates.

PUBLIC COMMENT

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Dr. Ackerman addressed the Board about a motion for reinstatement of her license.

Respectfully submitted,

George J. Scott, D.P.M., D.O., FACOFP
Board President

WVR/br